

HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 1833(S/S)03:
(Old no. 1580/1991)

Mahasherwari Dutt Seamwal S/o late Ram Seamwal,
R/o P.01, Karan Pryag,
Distt. Chamoli, (Garhwal). ----- Petitioner.

Vs.

1. The Director,
Directorate of Land Acquisition,
Ooard of Revenue, U.P. Lucknow,
2. The District Magistrate,
Nainital. ----- Respondents.

Sri Sri Deepak Sharma, Ad. holding brief of Sri Arvind Vashishtha, learned counsel for the petitioner,
Ld. Standing Counsel for State of Uttaranchal/respondent no. 2.

Hon'ble M.M. Ghildiyal, J.

Heard Sri Deepak Sharma Adv., holding brief of Sri Arvind Vashishtha, learned counsel for the petitioner and learned Standing Counsel for State of Uttaranchal.

2. By means of this writ petition, the petitioner has prayed to issue for the following reliefs:-

- (i) to issue a writ or certiorari quashing the annexure no. 4 passed by opposite party no. 1 dated 23.02.1991,
- (ii) to issue a writ of mandamus commanding the opposite party no. 1 and 2 not to enforce the reversion order and the petitioner be allowed to continue to work on his promotional post,
- (iii) to issue a writ order or direction as this Hon'ble Court deem thinks fit and proper in favour of the petitioner in the ends of justice,
- (iv) to award the cost of the petition in favour of the petitioner against the opposite parties.

3. The petitioner, who was appointed on 10.04.1986 as Chain Man which is a class IV post in the office of respondent no. 2. Lateron, a post of Amin, which is a class III post fell vacant in the office of respondent no. 2 and the petitioner alongwith others moved application for promotion on the post of Amin. A three member Selection Committee was constituted for conducting the Departmental Examination, as per G.O. dated 31.08.1982 and the petitioner alongwith others appeared in the written test as well as in the interview and in pursuance of the examination conducted by the respondents, the petitioner was promoted to the post of Amin vide order dated 22.12.1990. On 04.01.1991, the respondent no. 1 directed the respondent no.2 not to make any promotion or recruitment without approval of respondent no.1 to which the respondent no. 2 replied that the promotion of the petitioner has been made in accordance with law and no irregularity was committed in making the promotions. However the respondent no. 1 vide its order dated 23rd February 1991 passed an order reverting the petitioner to the post of Chain Man. The said order has been passed on the ground that the promotion shall be made on the post of Amin on the basis of seniority of class IV employees in the State.

4. The petitioner has filed the present writ petition against the order dated 23rd February 1991 by which the petitioner has been reverted to the post of Chain Man. The Allahabad High Court on 18.04.1991 stayed the reversion order and since then the petitioner is continuing on the post of Amin.

5. The impugned order indicates that the post of Amin is to be filled by way of promotion from amongst class IV employees in accordance with the seniority at the State level. Thus, the order impugned indicates itself that the respondent has misinterpreted the G.O. issued by the Govt. time to time in this

regard. Since the class IV post is a district cadre post, there is no State wise seniority of class IV employees. I find force in the submission of the learned counsel for the petitioner.

6. For the reasons, stated above, the writ petition is allowed. The impugned order dated 23rd February 1991 passed by the respondent no. 1 is hereby quashed. No order as to costs.

(M.M. Ghildiyal, J.)

April 13, 2006:

NCM: